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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 14, 2001

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE010313

CASE NO. PUE010665

Ex Parte: In the matter of amending
filing requirements for applications
to construct and operate electric
generating facilities

**ORDER ADOPTING RULES AND
PRESCRIBING ADDITIONAL NOTICE**

On June 12, 2001, the State Corporation Commission ("Commission") entered its Order Establishing Proceeding and Prescribing Notice in Case No. PUE010313 ("June 12 Order") to establish new filing requirements to be applicable to all entities seeking authority to construct and operate electric generating facilities in Virginia. The new regulations to be promulgated in this proceeding will amend the Commission's existing filing requirements for applications submitted by independent power producers pursuant to §§ 56-234.3 and 56-265.2 of the Code of Virginia.¹ We noted in our June 12 Order that significant changes have occurred in the electric utility industry in Virginia since the adoption in 1990 of the current filing requirements, and that, moreover, statutes governing the Commission's approval of electric generating facilities have been amended significantly. These statutory changes include amendments to § 56-265.2 and the

¹ 20 VAC 5-302-10 et seq.

enactment in 1999 of the Virginia Electric Utility Restructuring Act ("the Restructuring Act" or "the Act").²

The proposed amendments to the existing filing requirements were developed by our Staff after receiving suggestions from numerous interested parties. Before new rules were proposed formally and noticed by our June 12 Order, the Staff informally solicited input on rule revisions from interested parties and held a meeting attended by stakeholders to review and discuss an initial draft of amendments to the rules.

After receiving briefs from the Commission Staff and certain interested parties,³ we ruled in our Order of August 3, 2001, on a threshold legal question as to whether §§ 56-234.3 and 56-265.2 of the Code of Virginia will continue to have applicability after January 1, 2002, with regard to applications to construct and operate generating facilities, or if instead § 56-580 D of the Restructuring Act becomes the primary statutory mechanism for the approval of electric generating facilities. We found that although the Restructuring Act is not as clear as it could have been on the issue, § 56-580 D does supplant §§ 56-234.3 and 56-265.2 in the Commission's approval process of electric generating facilities on and after January 1, 2002.

After resolution of the threshold legal issue, we received comments on the proposed amendments to the rules from the following parties: AEP-Virginia; the American Lung Association of Virginia; CPV; Columbia Gas of Virginia, Inc., together with Washington Gas Light Company, and Virginia Natural Gas, Inc. ("the Gas Companies"); AP; Dominion Virginia

² Chapter 23 of Title 56 of the Code of Virginia, §§ 56-576 et seq.

³ Appalachian Power Company d/b/a/ American Electric Power ("AEP-Virginia"); Competitive Power Ventures, Inc. ("CPV"); Dynegy Power Corp. ("Dynegy"); Tenaska, Inc. ("Tenaska"); The Potomac Edison Company, d/b/a Allegheny Power ("AP"); and Virginia Electric and Power Company ("Dominion Virginia Power").

Power; Dynegy; Mirant Danville, LLC; Virginia electric distribution cooperatives⁴ together with Old Dominion Electric Cooperative and the Virginia, Maryland & Delaware Association of Electric Cooperatives; PG&E National Energy Group; Piedmont Environmental Council; Reliant Resources, Inc.; Tenaska; the Virginia Department of Environmental Quality ("DEQ"); and the Virginia Department of Conservation and Recreation.

NOW THE COMMISSION, upon consideration of the record established herein and the applicable law, is of the opinion and finds that the filing requirements in support of applications for authority to construct and operate an electric generating facility as amended and attached hereto as Attachment A should be adopted, effective as of the date of this Order for applications filed on and after January 1, 2002. In addition, because of increasing concerns expressed in this proceeding and elsewhere regarding the environmental impacts that may be caused by the many proposed new electric generating facilities, and because the law requires that we give consideration to the environmental effects of the construction and operation of such new power plants, we find it appropriate to consider these issues in the context of a rulemaking.⁵ Accordingly, we also are publishing additional proposed rules for further comment and consideration in a new docket (Case No. PUE010665).

We also include in the proposed additional rules filing requirements related to market power. The Commission has made revisions to the Staff proposal on this issue that was noticed initially. The revisions are sufficiently substantial that we find that it is appropriate that the

⁴ A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Inc., Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, Inc.

⁵ As noted at p. 7, infra, the issue of cumulative environmental impacts and other issues addressed in the adopted and proposed rules are before the Commission in presently pending cases. Such issues will be addressed in the pending cases.

parties should have an additional opportunity to offer further comments before we make a final determination.

Finally, § 56-578 D states that the Commission "shall consider developing expedited permitting processes for small generation facilities of fifty megawatts or less." Our Staff advises us that, although this matter was considered in the meeting of stakeholders, parties were unable to provide guidance as to how the process may be streamlined for smaller facilities. We invite the Staff and parties to consider this issue further as part of the continuation of this matter in the new docket and to make recommendations to the Commission. We note that distributed generation facilities, as they may be defined by the Commission in future proceedings, are excluded from the rules we are adopting.

Rules Adopted (Case No. PUE010313)

Our amendments to the rules have been made after consideration of proposals from the Staff and parties, and reflect our earlier ruling as to the future inapplicability of certain Code provisions after January 1, 2002, with respect to generation. While we will not elaborate on each change we have made, we do address certain key provisions of the amended rules.

In the "Applicability and scope" provision of the rules, 20 VAC 5-302-10, we are removing the references to §§ 56-234.3 and 56-265.2 consistent with our ruling on August 3, 2001. We were urged to exclude the reference to § 56-46.1 from this provision in new rules. We decline to do so as this statute will continue to constitute a critical component of our review process for applications for approval of electric generating facilities.

Some parties expressed a concern that certain information required by the proposed rules may be considered confidential or proprietary by the applicant. This is presently the case with various provisions of the existing filing requirements. Procedures for the filing of confidential or

proprietary information are expressly provided for within the Commission's existing Rules of Practice and Procedure at 20 VAC 5-20-170. The rules we adopt here provide that such material shall be treated in accordance with our procedural rules.

In 20 VAC 5-302-20 6, we retain the requirement that applicants include a discussion of the operational history of any other projects developed or managed by the applicant. Some comments questioned the scope of this requirement. "Operational history" should include such information as equivalent availability factors, capacity factors, and other similar data. Detail beyond a summary of such data may be obtained through informal discussion with the applicant or through formal discovery.

While we are eliminating much of the information formerly required concerning applicant's construction plans, we will continue to require certain basic information about the applicant's proposed facility, such as a description of major systems and configuration, estimated costs, and project schedules. The Commission must know precisely what it is that an applicant would have us approve. Moreover, a facility's design features affect its environmental impacts, which we must consider pursuant to §§ 56-46.1 and 56-580 D.

At 20 VAC 5-302-20 9, we include a requirement that applicants furnish specific information concerning any natural gas facilities associated with applicant's proposed generating plant. Such information is needed to understand all aspects of the proposed project.⁶ In addition, as requested by the Gas Companies, the rules will require that when natural gas facilities are to be constructed to serve the proposed generating facility the applicant shall serve notice of its application upon any natural gas local distribution company in whose service territory the natural gas facilities will be constructed or operated. An applicant's natural gas facilities could impact

⁶ Section 56-580 D refers not merely to an applicant's proposed electric generating facility but to such facility "and associated facilities."

local distribution companies and thus it is appropriate for these potentially affected companies to receive notice.

Subsection 20 VAC 5-302-20 12 requires that an applicant submit the designated information to DEQ simultaneously with its filing with the Commission.⁷ We recognize that applicants may be eager to initiate the certification process at the Commission before information relative to every environmental issue is available. However, by requiring that the information identified in the rules be submitted to DEQ simultaneously with its filing at the Commission, the DEQ should be able to present a timely and complete environmental assessment report to the Commission. This should help ensure that the Commission's procedural schedule established for an application at the time of its filing is not interrupted, thus resulting in a more expeditious proceeding and a more timely decision.

As part of the discussion relative to the public interest, 20 VAC 5-302-20 14 requires an analysis of any reasonably known impacts the proposed facility may have on service to, and rates paid by, customers of any regulated public utility service in the Commonwealth, including water service, gas distribution service, electric distribution service, and electric transmission service. While on and after January 1, 2002, the generation of electric energy will no longer be subject to regulation under Title 56 of the Code except as specified in the Restructuring Act, we cannot ignore possible implications affecting the rates and services that we continue to regulate. Thus, we find that the public interest criterion of § 56-580 should include, but is not limited to, a consideration of these factors.

⁷ The rules require a discussion of any necessary air and water permits, but do not necessarily require that the permit applications themselves be filed with the Commission in order to make the certificate application complete. We note, however, that many applicants routinely do file copies of their permit applications with the Commission. If such applications are not filed they may be obtained through the discovery process.

Rule 20 VAC 5-302-30 is repealed.⁸

The amended rules we are adopting will be effective as of the date of this Order and applicable to applications filed on and after January 1, 2002.⁹ A number of applications are presently pending before the Commission. Issues in those cases may relate to matters covered by the rules we adopt in this Order or matters included in the proposed rules we offer for publication and comment today. Neither the adopted nor proposed rules limit what we may consider in those pending cases; such matters or issues will be considered on a case-by-case basis in each proceeding.

Additional Rules Proposed (Case No. PUE010665)

In the past, when facilities were not constructed absent a showing of need, projects were brought on line in an incremental fashion and were dispersed among the various service territories of Virginia's incumbent electric utilities. New power plants were proposed, most often, one at a time, although sometimes several were proposed over a period of a few years. Presently, Virginia has power plants with a total capacity of approximately 20,000 megawatts ("MW")¹⁰ that were constructed over the last half-century.

With the Federal Energy Regulatory Commission's efforts in recent years in providing "open access" for electricity transmission and developing competition in wholesale markets, and with the elimination of the "need" requirement for plants in Virginia, the Commonwealth, like

⁸ This subsection dealt with need, viability, and cost effectiveness of proposed projects.

⁹ For applications filed prior to January 1, 2002, information required by the amendments to the rules we adopt herein need not be included by the applicant. The Staff and other parties may, of course, obtain this information through discovery.

¹⁰ This does not include purely private generation facilities.

much of the nation, has been inundated with proposed power plant projects. Nationwide, power plant projects proposed to be built in the next few years total more than 368,000 MW.¹¹ In Virginia the story is the same. Depending on who is counting and how, more than 30 new power plants are proposed in the Commonwealth totaling almost 20,000 MW.¹² Additional new plants are also being announced on a regular basis. A recent industry-government task force focusing on attracting high-technology industries to Virginia concluded that it is not possible at this time to predict accurately how many or which projects will be successful.¹³ Another report from industry and economic development interests estimated that only 40 to 50 percent of the proposed plants would be constructed.¹⁴ If that prediction is correct then perhaps 12 to 15 new power plants with 8,000 to 10,000 MW of new capacity will be added in Virginia in the next few years. That would represent a 40 to 50 percent increase over our current capacity.

Due to this dramatic increase in proposed generating facilities, there have been concerns voiced about the cumulative environmental impacts from the growth of these new sources of air emissions. Such concerns have not been limited to electric plant proceedings at the Commission. The Virginia State Advisory Board on Air Pollution ("SAB") selected the issue of cumulative impacts of new power plants for evaluation this year.¹⁵ The SAB formed a Cumulative Effects Work Group ("CEWG"), consisting of members representing industrial, economic development,

¹¹ Electric Power Supply Association, Announced Merchant Plants, October 26, 2001.

¹² The reports referenced herein provide figures on the number of proposed plants ranging from 28 (Report of Industrial and Economic Development Subgroup, see infra pp. 8-9, at 8) to 33 (Virginia Tech Study, see infra pp. 9-10 and note 19, at 45-46).

¹³ Virginia Tech Study, see infra pp. 9-10 and note 19, at 45.

¹⁴ Report of Industrial and Economic Development Subgroup, see infra pp. 8-9, at 7.

¹⁵ The State Advisory Board on Air Pollution was organized to evaluate key air quality issues of concern and to offer recommendations to the State Air Pollution Control Board for consideration and further action.

environmental, and health interests. The CEWG could not reach a consensus on the issues and ultimately split into two subgroups, one representing industrial and economic development interests and the other representing environmental and health interests.¹⁶ Each subgroup presented separate reports to the Air Pollution Control Board on November 7, 2001.

The Environment and Health Subgroup stated in its report:

No existing policies require state regulatory agencies or applicants to analyze the cumulative effects of historically significant new emissions growth embodied by Virginia's current energy development program levels. However, current impacts of air pollution on environmental health combined with rapidly expanding power plant development has greatly elevated the need for a state-wide, cumulative "environmental and human health" effects analysis on an expedited time line to inform key VDEQ and SCC decisions. The Commonwealth needs to assure balance between environmental impacts, one of two primary SCC considerations, and economic development that is a secondary SCC consideration. . . . based on agency and nonprofit missions, the Environment and Health Subgroup believes we must err on the side of protecting public health and welfare, including but not limited to sensitive Class I and Piedmont resources.¹⁷

While the Industrial and Economic Development Subgroup did not embrace cumulative effects modeling, it did recognize that:

The proliferation of announcements of new power plant developments in the state is a valid reason to continue to investigate cumulative impacts even when the emissions from each of the individual plants are below the threshold levels for a major source category.¹⁸

¹⁶ The Industry and Economic Development Subgroup consisted of individuals representing American Electric Power, Consolidated Energy, Dominion Virginia Power, International Paper, Virginia Economic Development Partnership, Virginia Independent Power Producers, and Yokohama Tire Corp.

The Environmental and Health Subgroup members represented the American Lung Association of Virginia, the National Park Service, and the Piedmont Environmental Council.

¹⁷ Environment & Health Subgroup Report at 14-15 (emphasis in original).

¹⁸ Industrial and Economic Development Subgroup Report, Conclusion No. 1 at 16.

The issue of the overall impacts of new power plants on the environment was also raised as a concern in a recent study conducted by Virginia Tech's Alexandria Research Institute, which was guided by the Task Force on Electric Power for Virginia's High-Technology Industry ("Virginia Tech Study").¹⁹ The Task Force was composed of individuals representing technology and energy services industries in Virginia.²⁰ The Virginia Tech Study began by stating that the Commonwealth must now confront a critical question:

How can Virginia continue to improve its already competitive position in attracting high-technology industries, by meeting energy infrastructure challenges without negatively impacting its citizens or degrading the quality of our environment?²¹

The Task Force's conclusions in the Virginia Tech Study included the following:

There are 33 new electric power plant projects under development that, if completed, will be located in Virginia. If less than half of the projects planned are successful, the Commonwealth will change from an electricity importing state (~30%) to that of a significant exporter in a relatively short period, the natural gas consumption could double, the demand for water use would increase significantly, and the air quality would be impacted. The overall impacts of these projects on Virginia's resources, infrastructures, and environment need to be assessed and better understood.²²

The Task Force also included the following as one of its recommendations:

¹⁹ Rahman, Saifut, and Bigger, John, "Improving Virginia's Attractiveness for High-Technology Industries," Task Force on Electric Power for Virginia's High Technology Industry, Alexandria Research Institute, Virginia Polytechnic Institute and State University, October 31, 2001.

²⁰ The organizations represented were: America Online, Inc.; Columbia Gas of Virginia; Distributed Power Coalition of America; Dominion Semiconductor, Inc.; Dominion Virginia Power; Einhorn, Yaffee, Prescott Mission Critical Facilities, Inc.; EPRI-Power Electronics Applications Center, Corp.; McGuireWoods LLP; National Institute of Standards and Technology; Northern Virginia Electric Cooperative; Old Dominion Electric Cooperative; Rappahannock Electric Cooperative; Resource Dynamics, Corp.; Virginia's Center for Innovative Technology; Virginia Economic Development Partnership; Virginia Tech Alexandria Research Institute; and 7x24 Exchange, Mid-Atlantic Chapter.

²¹ Virginia Tech Study at 2.

²² Id. at 82.

An assessment should be undertaken to examine the impacts on Virginia's existing industries of the pending expansion of the Commonwealth's Ozone Nonattainment Areas. The assessment also needs to include both the impacts on and impacts by the proposed power plant projects, the existing fossil-fueled power plants, fuel switching options for already installed industrial and commercial facilities, and potential new applications and technologies, such as distributed generation.²³

The cumulative impact issue is not limited to Virginia. Neighboring states Kentucky, Tennessee, and Maryland, as well as Georgia, have begun to take measures for cumulative effects analysis of new power plants; it also appears that in Georgia, Kentucky and Tennessee, moratoriums have been issued on new plant construction pending cumulative impacts analyses.²⁴ In the Pacific Northwest, the Bonneville Power Administration ("BPA")²⁵ has initiated measures to analyze and disclose pertinent impacts on regional air quality from the combined emissions of all proposed combustion-related generation projects in Washington, Oregon, and Idaho.²⁶ The BPA states that more than 40 new electric generation projects in those three states, providing more than 25,000 MW of power, have requested access to the transmission grid it administers. The concentration of proposed power plants in Virginia is far greater than in the BPA area of concern.²⁷

²³ Id. at 84.

²⁴ Industrial and Economic Development Subgroup Report, Conclusion No. 11 at 17; Environment & Health Subgroup Report at 12-13.

²⁵ The BPA is an agency of the U.S. Department of Energy that owns and operates 15,000 miles of high-voltage transmission facilities serving substantial portions of the Pacific Northwest, including Washington, Oregon, and Idaho. In addition, BPA markets power produced primarily by federally owned facilities. According to BPA, when it enables a generation plant by providing transmission service to it, the National Environmental Policy Act requires and evaluation of the environmental effects of both the generation unit and the ancillary transmission facilities required to integrate the plant.

²⁶ Regional Air Quality Modeling Protocol, Bonneville Power Administration, March 30, 2001 ("BPA Protocol").

²⁷ On a per square mile basis, the concentration of proposed plants in Virginia measured by both the number of plants and total megawatts, far exceeds that of the proposed plants in Washington, Oregon, and Idaho combined. According the United States Census Bureau, the land area in Virginia is 39,594 square miles. Washington (66,544),

The BPA has described the issue in the following manner:

Impacts from generation and transmission carry both site specific and cumulative implications. Both must be examined. Single facility impacts to resources like air and water may not be so significant, but when considered together with similar impacts from other plants the cumulative effects may warrant appropriate mitigation actions, including the curtailment of site development. For example, the air emissions from one turbine may have slight impacts on an airshed but when combined with the emissions from several plants within the same airshed their cumulative impacts may prove to be considerable.²⁸

The BPA found that "[a]ll past, present, and reasonably foreseeable actions potentially affecting relevant environmental resources need to be addressed in the cumulative impact analysis." It recognized that it is unlikely all of the proposed plants will be built. However, BPA plans to consider all of them "'reasonably foreseeable' because, at this time, all of them are concrete proposals and [BPA is] unable to determine which plants will be built and which will not be built."²⁹

The objective of BPA's Modeling Protocol dated March 30, 2001, is "[t]o analyze and disclose pertinent impacts to regional air quality from the combined emissions of all proposed combustion-related generation projects in Washington, Oregon and Idaho."³⁰ The BPA Protocol presents a regional modeling approach designed to assess the cumulative air quality impacts from the proposed power projects. BPA completed Phase I of its study on August 1, 2001.

Oregon (95,997), and Idaho (82,747) are all larger, with an aggregate land area of 245,288 square miles. On a per square mile basis, Virginia has approximately 5 times the amount of proposed new generation than do these states in the Pacific Northwest.

²⁸ BPA Protocol at 1.

²⁹ Id.

³⁰ Id.

The cumulative environmental impacts of proposed new power plants are not limited to air quality issues. The proposed growth in construction also presents questions as to cumulative impacts on Virginia's water resources. The Virginia Tech Study notes that:

Depending upon how many of these [new power generation] projects are successful, they could individually become a significant factor in the demand for water in specific areas and in aggregate have a significant impact on the Commonwealth's overall water requirements.³¹

In light of the foregoing activity in Virginia and throughout the country in response to the issue of cumulative environmental impacts caused by new power plant construction, coupled with the Commission's statutory obligations under §§ 56-46.1 A and 56-580 D, we believe that it is appropriate to consider this issue in the context of our rules governing the filing requirements for proposed electric generating facilities. Accordingly, we have developed additional rules to address cumulative impacts in our approval process for plant applications. With respect to impacts on air quality, the newly proposed amendment to 20 VAC 5-302-20 12 a would require the presentation of data that identifies the cumulative impacts on air quality resulting from the applicant's proposed facility, other proposed projects, and existing emitting facilities. We have attempted to have these rules, on the one hand, be sufficiently expansive in scope to include consideration of all proposed facilities that require air permits (not just electric plants), while at the same time limited so that only those projects where there has been significant action taken toward development (zoning, permitting, etc.) need be included in the analysis.

We have proposed similar amendments to 20 VAC 5-302-20 12 b and 20 VAC 5-302-20 9 i to address cumulative impacts on water sources and fuel supplies, respectively. We are

³¹ Virginia Tech Study at 60.

concerned with the cumulative impacts on water quality and levels, and on the infrastructure and transmission capacities and supply for natural gas and fuel oil.³²

In addition, new rule 20 VAC 5-302-20 15 is proposed to address market power issues. A variation of this rule was proposed originally at 20 VAC 5-302-25, but it applied only to incumbent electric utilities and their affiliates. The new rule we propose would be applicable to all applicants and therefore we believe further comment is warranted on this issue.

We recognize that these proposed rules will likely be controversial and generate significant debate. The Commission welcomes full and vigorous debate on these issues; we expect and welcome comments and advice on all aspects of the rules we present today. We also direct our Staff to convene one or more work groups of interested parties to explore the ramifications of the additional rules we are proposing.³³ In addition, the Staff and interested parties should continue to explore and provide recommendations on whether, and, if so, how the Commission might develop expedited permitting processes for small generating facilities of 50 MW or less. The Staff shall file a report detailing the work groups' efforts and making Staff's recommendations. Participants will have the opportunity to file their own comments on the Staff report and the proposed rules. Finally, there will be an opportunity to request a hearing in this matter. We will fully consider all comments and procedures prior to taking any final action with respect to the proposed rules.

³² The cumulative impact of new facilities on transmission systems will be addressed in part by the studies referenced in rule 20 VAC 5-302-20 13 b.

³³ Persons desiring to participate in the Staff work group(s) should, on or before January 15, 2002, notify Lawrence T. Oliver, Assistant Director of Economics and Finance at: State Corporation Commission, Division of Economics and Finance, P.O. Box 1197, Richmond, Virginia 23218, or by e-mail at: toliver@scc.state.va.us.

Accordingly, IT IS ORDERED THAT:

(1) Regulations amending the filing requirements for applications to construct and operate electric generating facilities are hereby adopted in Case No. PUE010313 as set forth in Attachment A to this Order, effective as of the date of this Order and applicable to applications filed on and after January 1, 2002.

(2) A proceeding for consideration of further amendments to the rules as set forth in Attachment B to this Order, as well as to consider development of expedited permitting processes for small generating facilities of 50 MW or less, is docketed and assigned Case No. PUE010665.

(3) The Commission Staff shall invite interested parties to participate in a work group or work groups for discussion of the Commission's proposed amendments as shown on Attachment B to this Order, and the development of expedited permitting processes for small generating facilities of 50 MW or less, and the Staff shall file with the Clerk of the Commission in Case No. PUE010665 a report, on or before April 19, 2002, with recommendations for further action by the Commission.

(4) On or before April 2, 2002, any interested person or entity desiring to become a party in Case No. PUE010665 for the consideration of the additional matters described herein shall file a notice of participation with the Clerk of the Commission at the address set forth below.

(5) On or before May 24, 2002, any party or other interested person or entity may file with the Clerk of the Commission, at the address set forth below, comments on the proposed amendments to the rules and on the Staff report.

(6) Any party or other interested person or entity desiring a hearing on the proposed amendments in this matter shall file such a request on or before May 24, 2002, and shall state in

detail why a hearing is necessary. Such a request should identify the factual issues likely in dispute upon which the party seeks hearing together with the evidence expected to be introduced at any hearing.

(7) On or before December 17, 2001, the Commission's Division of Information Resources shall make a down-loadable version of the proposed rules and this Order available on the Commission's Web site, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(8) The Staff, parties, and any other interested persons or entities making filings in Case No. PUE010665 shall file an original and fifteen (15) copies of their filing with the Clerk of the Commission, c/o , Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, referencing case No. PUE010665, and shall serve a copy of their filings on all other parties to this proceeding who have filed a notice of participation pursuant to ordering paragraph (4) above.

(9) On or before December 28, 2001, the Commission's Division of Information Resources shall cause to be published the follow notice as display advertising in newspapers of general circulation throughout the Commonwealth:

NOTICE TO THE PUBLIC OF A PROCEEDING TO
CONSIDER THE ADOPTION OF REVISED FILING
REQUIREMENTS FOR APPLICATIONS SEEKING
AUTHORITY TO CONSTRUCT ELECTRICAL GENERATING
FACILITIES IN VIRGINIA TO INCLUDE AN ANALYSIS
OF CUMULATIVE ENVIRONMENTAL IMPACTS
AND MARKET POWER
CASE NO. PUE010665

On December 14, 2001, the Virginia State Corporation Commission ("Commission") entered an order in Case No. PUE010313 adopting amendments to its rules governing the filing requirements for applications for authority to construct and operate electric generating facilities. The Commission's December 14, 2001, order also docketed Case No. PUE010665 and proposed additional rules on which it seeks comment. The

Commission noted in its order that a significant number of new power plants may be constructed within the next several years in Virginia. In light of this and other factors, the additional rules proposed pertain to cumulative impacts of proposed electric generating facilities and associated facilities on air quality, water sources, and fuel supply. The proposed rules also address issues relative to how an applicant's proposed facility may impact its ability to exert market power within the control area in which the facility is expected to be constructed.

The Commission's Staff has been directed to convene one or more work groups of interested parties to explore the ramifications of the proposed rules. In addition, the Staff and interested parties are to continue to explore and provide recommendations on whether, and, if so, how the Commission might develop expedited permitting processes for small generating facilities of 50 megawatts or less. The Commission Staff is to file a report detailing the work groups' efforts and making Staff's recommendations on or before April 19, 2002.

On or before January 15, 2002, any person desiring to participate in the Staff work group(s) should notify Lawrence T. Oliver, Assistant Director, Economics and Finance at: State Corporation Commission, Division of Economics and Finance, P.O. Box 1197, Richmond, Virginia 23218, or by e-mail at: toliver@scc.state.va.us.

Any interested person may obtain a copy of the Commission's December 14, 2001, order and proposed rules from the Commission's Web site, <http://www.state.va.us/scc/caseinfo/orders.htm>, or by requesting them in writing from the Clerk of the Commission at the address listed below. The proposed regulations will also appear in the Virginia Register of Regulations. On or before April 2, 2002, any interested person or entity desiring to become a party in this proceeding shall file with the Clerk of the Commission a notice of participation. On or before May 24, 2002, any party or other interested person or entity may file comments on the proposed amendments to the rules and on the Staff report, and may also file a request for hearing on the proposed rules. Any request for hearing should identify the factual issues likely in dispute, together with the evidence expected to be introduced at any hearing. Such persons should obtain a copy of the Commission's December 14, 2001 order for further procedural details.

All filings with the Commission in this matter shall include an original and 15 copies directed to the Clerk of the Commission,

c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, shall reference case No. PUE010665, and a copy shall be served on all parties filing a notice of participation.

VIRGINIA STATE CORPORATION COMMISSION

(10) There being nothing further to come before the Commission in Case No.

PUE010313, this case shall be removed from the docket and the papers filed herein placed in the file for ended causes.

(11) Case No. PUE010665 shall be continued for further proceedings consistent with this Order.